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Date: 10/03/2012 11:21 AM  
Subject: DRAFT NOTES ... NOT FOR DISTRIBUTION...

**Prior to Nancy's meeting with the Native Village of Tyonek tomorrow, I wanted to provide a summary of today's meeting. Note in addition to the below, I will be preparing some additional Q/As. Pls let me know if you believe I have accurately characterized the meeting or if you have recommended changes. Pls note that this is an urgent matter and i need to get this to Nancy's team by 3:00 today - thank you...**

### **Meeting Notes**

**Background:** On Oct 3, 2012, the Vice President (Mr. Randy Standifer) of the Native Village of Tyonek and his representatives met with the US EPA to discuss their concerns with the proposed Chuitna Coal Mine project. Notes: The Native Village of Tyonek is located approximately 12 miles southeast of the Beluga Coal Field, the proposed location of the Chuitna Coal Mine and is opposed to this mine.

**Proposed Project Discussion:** The proposed mine would result in the extraction of low-sulfur coal from the Beluga Coal Field over a projected 25-year mine life, with the production rate of up to 12 million tons of coal per year for export. This is the largest coal mine in Alaska history. Due to the 402 delegation to the state of Alaska, the proposed project and the SEIS is being managed by the USACE under CWA Section 404 authorities.

### **Potential Impacts:**

- Mine site is a headwater location where large wetland complexes supply water to streams in three salmon-bearing drainages that support subsistence, sport, and commercial fisheries.
- Mine would directly remove (to a *maximum* depth of 300 feet) approximately 4,000 acres of peat wetlands and impact *13.8* miles of stream channel, including headwater streams.

*The exact acreage of wetland impacts has not been established at this point, but it is in the thousands (2-3k), although maybe not as high as 4k (total mine area is 5k, with roughly 50% being identified as wetlands)*

### **Village Concerns Raised:**

- Vice President Standifer and team stated that the Corps is not giving tribal interests appropriate consideration in the NEPA process; they believe that many sites that are eligible for listing on the National Register are being overlooked and not properly evaluated - there are also many gaps in the analysis. They believe the Corps is prematurely moving forward with the process in establishing a Programmatic Agreement for treatment purposes with the State Historic Preservation Office/National Historic Preservation Office.

**NOTE:** After extensive cultural resource investigations between 2006-2009, EPA recommended and the State concurred that identified resources constituted an archaeological district (the Chuitn'u Archaeological District). This is now a formal designation and the site is afforded protection under the NRHP. Now that the Corps is the lead, the tribe would like to see additional investigations and the district listed using additional criteria under the National Historic Preservation Act.

- Vice President Standifer and team indicated that they have great concern that the proposed restoration project will not work due to it being the first of its kind. (They are dredging in headwater streams to a depth of approximately 300 feet in headwater streams and have proposed to restore hydrology such that it would mimic the natural setting.) Note that EPA also has similar concerns and we are working with the Corps to resolve our issues. Tribe representatives also indicated that NOAA has decided to not be a cooperating agency based on their concerns regarding the restoration and the potential associated damages that could result.

**This is the first I had heard of NOAA declining participation due to concerns over restoration and impacts. In their letter to R10 declining cooperating agency status in 2006, NOAA cited resource considerations.**

- Ultimately, the tribe is concerned for protection of their river, its tributaries in the watershed, and their ability to maintain connection with their primary food source of salmon. They have been fishing these waters for thousands of years, and are called the "Beach People" because they subsist from the rivers. They are concerned for the continued existence of five species of salmon found in the Chuitna river, especially King salmon, which are currently only locally available to the tribe due to their presence in the Chuitna River. The tribe pointed to a study that counted approximately 44,000 salmon fry in the streams that may be filled/impacted in the proposed mining area.
- The tribe asked the question of whether social justice impacts were considered as a factor in the permitting decision process.
- The tribe expressed that they want to be able to "legitimately voice their concerns" in this process.

**Village Questions:** They wanted to know what they could do to support us; they wanted to know more about the elevation processes and if they could be used for the project; and they

**Commented [FGW1]:** Tribe specifically stated that they believe there has been a lack of adequate consultation under NHPA Section 106, and that the USACE has not required the submission of sufficient information to move forward in establishing a Programmatic Agreement.

**Commented [FGW2]:** The Administrator's remarks directly responded to this concern.

inquired if a watershed assessment could be done for this project similar to that of the Bristol Bay Assessment.

**Village Recommendations:** They strongly urged the EPA to provide oversight in the process and encouraged us to use our elevation processes, as appropriate.

**Summary Points Provided by Administrator Jackson:**

- We need to ensure that you are present at the table and are actively engaged in the process. Therefore, we need to ensure that you have access to the available science and other relevant information. We need to continue to closely coordinate on the action, as per our MOU.
- We need to ensure that we understand all concerns and proposed mitigation measures.
- We need to ensure that the process is followed for decision-making purposes.
- With respect to the Pebble project, this project is very different. Pebble is in a much different type of setting than the proposed project and is undergoing a very unusual process. Watershed assessments are rare for the EPA. Generally, we will strive to find a middle ground that accommodates the project applicant with protective measures put in-place for the environment. However, there are certain circumstances that warrant elevations and we will ensure that we are closely engaged in this process.